

1 BILL NO. S-85-01-22

2 SPECIAL ORDINANCE NO. S-17-85

3 AMENDED  
4 ORDINANCE AUTHORIZING THE CITY OF  
5 FORT WAYNE TO ISSUE ITS "CITY OF FORT WAYNE  
6 ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 1984  
7 (WILHELM REAL ESTATE CORP. PROJECT)"  
8 AND APPROVING OTHER ACTIONS IN RESPECT THEREOF

9 WHEREAS, the Fort Wayne Economic Development Commission  
10 has rendered its Project Report for the Wilhelm Real Estate Corp.  
11 Project regarding the financing of proposed economic development  
12 facilities under construction or to be constructed in the City  
13 of Fort Wayne, Indiana, and the Fort Wayne Planning Commission  
14 has commented favorably thereon; and

15 WHEREAS, the Fort Wayne Economic Development Commission  
16 conducted a public hearing on December 6, 1984, and also adopted  
17 a resolution on December 6, 1984, which Resolution has been  
18 transmitted hereto, finding that the financing of certain economic  
19 development facilities of Wilhelm Real Estate Corp. for lease to  
20 Lincolnway International Trucks, Inc. complies with the purposes  
21 and provisions of I.C. 36-7-12 and that such financing will be  
22 of benefit to the health and welfare of the City of Fort Wayne  
23 and its citizens; and

24 WHEREAS, the Fort Wayne Economic Development Commission  
25 has heretofore approved and recommended the adoption of this form  
26 of Ordinance by this Common Council, has considered the issue of  
27 adverse competitive impact and has approved the forms of and has  
28 transmitted for approval by the Common Council the Loan Agreement,  
29 Note, Mortgage and Indenture of Trust, Guaranty Agreement, Lease,  
30 Collateral Assignment of Lease and Rentals and Lessee's Consent  
31 and Agreement to Lease Assignment; now therefore,

32 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
FORT WAYNE, INDIANA THAT:

SECTION 1. It is hereby found that the financing of  
the economic development facilities referred to in the Loan



# FOX RIVER BOND

1 Agreement and Mortgage and Indenture of Trust approved by the  
2 Fort Wayne Economic Development Commission and presented to this  
3 Common Council, the issuance and sale of revenue bonds in the  
4 aggregate principal amount of One Million Three Hundred Fifty-Five  
5 Thousand Dollars (\$1,355,000), the loan of the proceeds of the  
6 revenue bonds to Wilhelm Real Estate Corp. for the acquisition and  
7 construction of such facilities for lease to Lincolnway Interna-  
8 tional Trucks Inc. under the Lease, the payment of the revenue  
9 bonds by the note payments of Wilhelm Real Estate Corp. under  
10 the Loan Agreement and Note, the guaranty of the payment of prin-  
11 cipal and interest on the bonds by F. A. Wilhelm Construction Co.,  
12 Inc. under the Guaranty Agreement, and the securing of said bonds  
13 by the mortgaging of such facilities to the Trustee under the  
14 Mortgage and Indenture of Trust complies with the purposes and  
15 provisions of I.C. 36-7-12 and will be of benefit to the health  
16 and welfare of the City of Fort Wayne and its citizens.

17 SECTION 2. The facilities will consist of the acquisi-  
18 tion of 9.29 acres of land located at 2817 Coshen Road, Fort  
19 Wayne, Indiana and equipping of a building thereon.

20 SECTION 3. The findings of the Fort Wayne Economic  
21 Development Commission that the above-described Project of Wilhelm  
22 Real Estate Corp. for lease to Lincolnway International Trucks,  
23 Inc. will not have an adverse competitive impact on other  
24 facilities of the same kind already operating in the same market  
25 area are hereby ratified and confirmed for the reasons set forth  
26 in the Commission's resolution.

27 SECTION 4. The substantially final forms of the Loan  
28 Agreement, Note and Mortgage and Indenture of Trust approved by  
29 the Fort Wayne Economic Development Commission are hereby approved  
30 (herein collectively referred to as the "Financing Agreement"  
31 referred to in I.C. 36-7-12), and the substantially final forms  
32 of Lease, Guaranty Agreement, Collateral Assignment of Lease and



1 Rentals and Lessee's Consent and Agreement to Lease Assignment  
2 approved by the Fort Wayne Economic Development Commission are  
3 hereby approved, and all such documents shall be incorporated  
4 herein by reference and shall be inserted in the minutes of the  
5 Common Council and kept on file by the Clerk. In accordance with  
6 the provisions of I.C. 36-1-5-4, two (2) copies of all such  
7 documents are on file in the office of the Clerk for public  
8 inspection.

9 SECTION 5. The City of Fort Wayne shall issue its  
10 Economic Development Revenue Bonds, Series 1984 (Wilhelm Real  
11 Estate Corp. Project), dated December 1, 1984, in the total  
12 principal amount of approximately One Million Three Hundred  
13 Fifty-five Thousand Dollars (\$1,355,000) for the purpose of  
14 procuring funds to lend to Wilhelm Real Estate Corp. to pay the  
15 costs of acquisition and construction of the economic development  
16 facilities as more particularly set out in the Loan Agreement and  
17 Mortgage and Indenture of Trust incorporated herein by reference  
18 which bonds will be payable as to principal, premium, if any,  
19 and interest from the note payments made by Wilhelm Real Estate  
20 Corp. under the Loan Agreement and Note or as otherwise provided  
21 in the above described Mortgage and Indenture of Trust. The bonds  
22 shall be issued in fully registered form in the denominations of  
23 \$5,000 or integral multiples thereof, shall have principal payable  
24 monthly over a period ending on March 1, 2000, in the amount  
25 calculated as provided in Article II of the Mortgage and Indenture  
26 of Trust, and shall be redeemable as provided in Article III of  
27 the Mortgage and Indenture of Trust. Payments of principal and  
28 interest are payable in lawful money of the United States of  
29 America at the principal office of the Trustee or its successor  
30 in trust or by check or draft mailed or delivered to the regis-  
31 tered owner as provided in the Mortgage and Indenture of Trust.  
32 The bonds shall never constitute a general obligation of, an



1 indebtedness of, or a charge against the general credit of the  
2 City of Fort Wayne or the State of Indiana nor are the bonds  
3 payable in any manner from revenues raised by taxation.

4 SECTION 6. The Mayor and Clerk are authorized and  
5 directed to sell such bonds to the purchasers thereof at a price  
6 not less than 100% of the principal amount thereof. The bonds  
7 shall bear interest from the date of delivery at the rate per annum  
8 equal to eighty-six percent (86%) of the interest rate as period-  
9 ically determined on February 1, 1985 and each third February 1st  
10 thereafter until maturity, by the arithmetic average of the  
11 Treasury Note yields as published in The Wall Street Journal  
12 for the respective 35, 36 and 37 month Treasury Note maturities  
13 from the computation date. (The computed rate shall be fixed  
14 for the next three year period from the date of computation.)  
15 In the event interest on the bonds becomes taxable, the interest  
16 rate shall be equal to the national prime commercial lending rate  
17 quoted by The Wall Street Journal plus one percent (1%).

18 SECTION 7. The Mayor and Clerk are authorized and  
19 directed to execute, attest, affix or imprint by any means the  
20 City seal to the documents constituting the Financing Agreement  
21 approved herein on behalf of the City and any other document  
22 which may be necessary or desirable to consummate the transaction,  
23 including the bonds authorized herein. The Mayor and Clerk are  
24 hereby expressly authorized to approve any modifications or  
25 additions to the documents constituting the Financing Agreement  
26 which take place after the date of this Ordinance with the review  
27 and advice of the City Attorney; it being the express understand-  
28 ing of this Common Council that said Financing Agreement is in  
29 substantially final form as of the date of this Ordinance. The  
30 approval of said modifications or additions shall be conclusively  
31 evidenced by the execution and attestation thereof and the affix-  
32 ing of the seal thereto or the imprinting of the seal thereon;



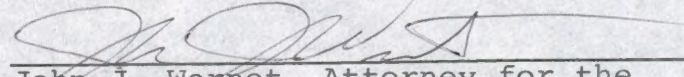
1 provided, however, that no such modification or addition shall  
2 change the maximum principal amount of, interest rate on or term  
3 of the bonds as approved by the Common Council by this Ordinance  
4 without further consideration by the Common Council. The  
5 signatures of the Mayor and Clerk on the bonds may be either manual  
6 or facsimile signatures. The Clerk is authorized to arrange for  
7 delivery of such bonds to the Trustee named in the Mortgage and  
8 Indenture of Trust. Payment for the bonds shall be made to the  
9 Trustee named in the Mortgage and Indenture of Trust and after  
10 such payment the bonds shall be delivered by the Trustee to the  
11 purchasers thereof. The Mayor and Clerk shall execute and the  
12 Clerk shall deliver the bonds to the Trustee within ninety days  
13 of the adoption of this Ordinance. The bonds shall be dated as  
14 of December 1, 1984, but shall bear interest only from the date  
15 of delivery.

16 SECTION 8. The provisions of this Ordinance and the  
17 Mortgage and Indenture of Trust securing the bonds shall consti-  
18 tute a contract binding between the City of Fort Wayne and the  
19 holder of the Economic Development Revenue Bonds, Series 1984  
20 (Wilhelm Real Estate Corp. Project), and after the issuance of  
21 said bonds, this Ordinance shall not be repealed or amended in  
22 any respect which would adversely affect the rights of such  
23 holders so long as any of said bonds or the interest thereon  
24 remains unpaid.

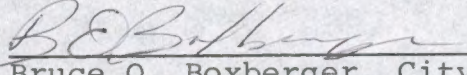
25 SECTION 9. This Ordinance shall be in full force and  
26 effect from and after its passage and signing by the Mayor.

27  
28 \_\_\_\_\_  
Councilmember

29 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION  
30 AND APPROVED AS TO FORM.

31   
John J. Wernet, Attorney for the  
Economic Development Commission  
32 Dated this 12 day of Feb, 1985.

APPROVED AS TO FORM AND LEGALITY.

  
Bruce O. Boxberger, City Attorney  
Dated this 12 day of Feb, 1985



1 BILL NO. S-85-01- 22

2 SPECIAL ORDINANCE NO. S- 17-85

3 ORDINANCE AUTHORIZING THE CITY OF  
4 FORT WAYNE TO ISSUE ITS "CITY OF FORT WAYNE  
5 ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 1984  
(WILHELM REAL ESTATE CORP. PROJECT)"  
AND APPROVING OTHER ACTIONS IN RESPECT THEREOF

6 WHEREAS, the Fort Wayne Economic Development Commission  
7 has rendered its Project Report for the Wilhelm Real Estate Corp.  
8 regarding the financing of proposed economic development facilities  
9 under construction or to be constructed in the City of Fort Wayne,  
10 Indiana, and the Fort Wayne Plan Commission has commented favorably  
11 thereon; and

12 WHEREAS, the Fort Wayne Economic Development Commission  
13 conducted a public hearing on December 6, 1984, and also  
14 adopted a resolution on December 6, 1984, which Resolution  
15 has been transmitted hereto, finding that the financing of  
16 certain economic development facilities for Wilhelm Real Estate Corp.  
17 for lease to Lincolnway International Trucks, Inc. complies with  
18 the purposes and provisions of I.C. 36-7-12 and that such financing  
19 will be of benefit to the health and welfare of the City of Fort  
20 Wayne and its citizens; and

21 WHEREAS, the Fort Wayne Economic Development Commission  
22 has heretofore approved and recommended the adoption of this  
23 form of Ordinance by this Common Council, has considered the  
24 issue of adverse competitive impact and has specifically found  
25 and this Common Council finds: That the Project includes  
26 acquisition of real estate and construction of a commercial truck  
27 facility together with acquisition of machinery and equipment and  
28 that there are no existing facilities of the size and type of the  
29 Project in the general area of the Project that meet the needs of  
30 the Lessee and no one spoke in opposition to the Project; and the  
31 Commission has approved the forms of and has transmitted for  
32 approval by the Common Council the Loan Agreement, Mortgage and  
Indenture of Trust, Note, Bond, Lease, Conditional Assignment of



1 Lease and Rentals, Lessee's Consent and Agreement to Lease Assign-  
2 ment and Guaranty Agreement; now therefore,

3 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
4 WAYNE, INDIANA THAT:

5 SECTION 1. It is hereby found that the financing of  
6 the economic development facilities referred to in the Loan Agree-  
7 ment and Mortgage and Indenture of Trust approved by the Fort  
8 Wayne Economic Development Commission and presented to this  
9 Common Council, the issuance and sale of the revenue bonds  
10 in the aggregate principal amount of not to exceed \$1,355,000  
11 the loan of the proceeds of the revenue bonds to Wilhelm Real  
12 Estate Corp. for the acquisition and construction of such facili-  
13 ties for lease to Lincolnway International Trucks, Inc., under  
14 the Lease, the payment of the revenue bonds by the note payment  
15 of Wilhelm Real Estate Corp. under the Loan Agreement, and  
16 Note and the securing of said bonds by the mortgaging of such  
17 facilities to the Issuer under the Mortgage and Indenture of  
18 Trust complies with the purposes and provisions of I.C. 36-7-12  
19 and will be of benefit to the health and welfare of the City  
20 of Fort Wayne and its citizens.

21 SECTION 2. The facilities will consist of acquisition  
22 of real estate and construction of a building, including equip-  
23 ment and machinery located at 2817 Coshen Road, Fort Wayne,  
24 Indiana.

25 SECTION 3. It is hereby found that the above-described  
26 Project of Wilhelm Real Estate Corp. for lease to Lincolnway  
27 International Trucks, Inc. will not have an adverse competitive  
28 impact on other facilities of the same kind already operating  
29 in the same market area, and will contribute significantly to  
30 the creation of permanent new job opportunities.

31 SECTION 4. The substantially final forms of the  
32 Loan Agreement, Mortgage and Indenture of Trust, Note and



1 Bond, approved by the Fort Wayne Economic Development Commission  
2 are hereby approved (herein collectively referred to as the  
3 "Financing Agreement" referred to in I.C. 36-7-12, and the  
4 substantially final forms of Lease, Conditional Assignment  
5 of Lease and Rentals, Lessee's Consents and Agreement to Lease  
6 Assignment and Guaranty Agreement by the Fort Wayne Economic  
7 Development Commission are hereby approved, and all such documents  
8 shall be incorporated herein by reference and shall be inserted  
9 in the minutes of the Common Council and kept on file by the  
10 Clerk. In accordance with the provisions of I.C. 36-1-5-4,  
11 two (2) copies of all such documents are on file in the office  
12 of the Clerk for public inspection.

13 SECTION 5. The City of Fort Wayne shall issue its  
14 Economic Development Revenue Bonds, (Wilhelm Real Estate Corp.  
15 Project), in the total principal amount of not to exceed One  
16 Million Three Hundred Fifty Five Thousand Dollars (\$1,355,000)  
17 and with the final maturity December 1, 1999 from the date  
18 of issuance for the purpose of procuring funds to lend to  
19 Wilhelm Real Estate Corp. to pay the costs of acquisition and  
20 construction of the economic development facilities as more  
21 particularly set out in the Loan Agreement and Mortgage and  
22 Indenture of Trust incorporated herein by reference, which  
23 bonds will be payable as to principal, premium, if any, and  
24 interest from the note payments made by Wilhelm Real Estate  
25 Corp. under the Loan Agreement, and Note or as otherwise  
26 provided in the above described Mortgage and Indenture of Trust.  
27 The bonds shall be issued in fully registered form in the  
28 denominations of \$5,000 or integral multiples thereof and  
29 shall be redeemed as provided in Article III of the Mortgage  
30 and Indenture of Trust. Payments of principal and interest are  
31 payable in lawful money of the United States of America at the  
32 principal office of the Trustee or its successor in trust or



1 by check or draft mailed or delivered to the registered owner  
2 as provided in the Mortgage and Indenture of Trust. The  
3 bonds shall never constitute a general obligation of, an indebt-  
4 edness of, or a charge against the general credit of the City  
5 of Fort Wayne or the State of Indiana nor are the bonds payable  
6 in any manner from revenues raised by taxation.

7 SECTION 6. The Mayor and Clerk are authorized and  
8 directed to sell such bonds to the purchaser thereon at the  
9 rate per annum equal to 70% of the national prime commercial  
10 lending rate as quoted daily in the Wall Street Journal, such  
11 rate to be adjusted daily to reflect any change in said rate  
12 as quoted by the Wall Street Journal. In the event of a  
13 Determination of Taxability (as defined), the bonds shall bear  
14 interest at the Taxable Rate (as defined). The bonds shall  
15 be sold at a price not less than 100% of the principal amount  
16 thereof.

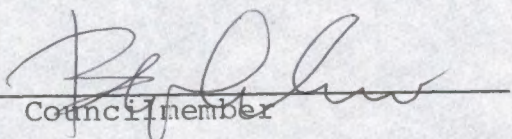
17 SECTION 7. The Mayor and Clerk are authorized and  
18 directed to execute, attest, affix or imprint by any means  
19 the City seal to the documents constituting the Financing  
20 Agreement approved herein on behalf of the City and any other  
21 document which may be necessary or desirable to consummate  
22 the transaction, including the bonds authorized herein. The  
23 Mayor and Clerk are hereby expressly authorized to approve  
24 any modifications or additions to the documents constituting  
25 the Financing Agreement which take place after the date of  
26 this Ordinance with the review and advice of the City Attorney;  
27 it being the express understanding of this Common Council  
28 that said Financing Agreement is in substantially final form  
29 as of the date of this Ordinance. The approval of said modifi-  
30 cations or additions shall be conclusively evidenced by the  
31 execution and attestation thereof and the affixing of the seal  
32 thereto or the imprinting of the seal thereon; provided,



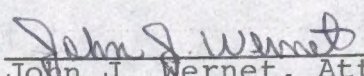
1 however, that no such modification or addition shall increase  
2 the maximum principal amount of, interest rate on or term of  
3 the bonds as approved by the Common Council by this Ordinance  
4 without further consideration by the Common Council. The  
5 signatures of the Mayor and Clerk on the bonds may be either  
6 manual or facsimile signatures. The Clerk is authorized to  
7 arrange for delivery of such bonds to the Trustee named in  
8 the Mortgage and Indenture of Trust, payment for the bonds will  
9 be made to the Trustee named in the Mortgage and Indenture of  
10 Trust and after such payment the bonds will be delivered by  
11 the Trustee to the purchasers thereof. The Mayor and Clerk  
12 shall execute and the Clerk shall deliver the bonds to the  
13 Trustee within ninety days of the adoption of this Ordinance.  
14 The bonds shall be dated as of December 1, 1984.

15 SECTION 8. The provisions of this Ordinance and  
16 the Mortgage and Indenture of Trust securing the bonds shall  
17 constitute a contract binding between the City of Fort Wayne  
18 and the holder of the Economic Development Revenue Bonds,  
19 (Wilhelm Real Estate Corp. Project), and after the issuance  
20 of said bonds, this Ordinance shall not be repealed or amended  
21 in any respect which would adversely affect the rights of such  
22 holders so long as said bonds or the interest thereon remains  
23 unpaid.

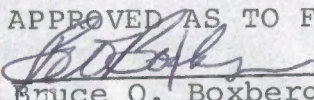
24 SECTION 9. This Ordinance shall be in full force  
25 and effect from and after its passage and signing by the  
26 Mayor.

27  
28   
Council member

29 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION  
30 AND APPROVED AS TO FORM.

31   
John J. Wernet, Attorney for the  
Economic Development Commission  
32 Dated this 21 day of Jan., 1985

APPROVED AS TO FORM AND LEGALITY.

33   
Bruce O. Boxberger, City Attorney  
Dated this 21 day of Jan., 1985



Read the first time in full and on motion by Eisbart, seconded by Redd, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City County Building, Fort Wayne Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.

DATE: 1-22-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Eisbart, seconded by Talarico, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	<u>✓</u>	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 2-12-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~)

(~~SPECIAL~~) (~~ZONING MAP~~) ORDINANCE (RESOLUTION) NO. A-17-85  
on the 12th day of February, 1985,

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of February, 1985, at the hour of 11:30 o'clock A.M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of February, 1985, at the hour of 11:30 o'clock A.M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



BILL NO. S-85-01-22

REPORT OF THE COMMITTEE ON FINANCE

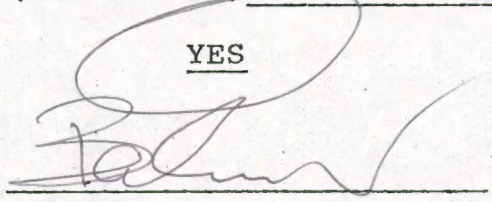
WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS  
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) AUTHORIZING THE CITY OF FORT WAYNE  
TO ISSUE ITS "CITY OF FORT WAYNE ECONOMIC DEVELOPMENT REVENUE BONDS,  
SERIES 1984 (WILHEIM REAL ESTATE CORP. PROJECT)" AND APPROVING OTHER  
ACTIONS IN RESPECT THEREOF

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)

(~~RESOLUTION~~) (DO PASS) (~~DO NOT PASS~~) (~~WITHDRAWN~~)

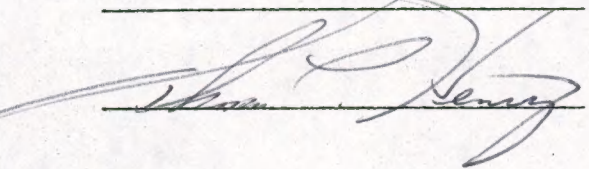
YES

NO

  
BEN A. EISBART  
CHAIRMAN

  
JANET G. BRADBURY  
VICE CHAIRWOMAN

  
SAMUEL J. TALARICO

  
THOMAS C. HENRY

  
JAMES S. STIER

CONCURRED IN 2-12-85

SANDRA E. KENNEDY  
CITY CLERK